

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

DUCK CREEK PASTURES, LLC,
679 W. Monroe Street,
Pardeeville, Wisconsin 53954,

Plaintiff,

Civil Action No.: _____

-v-

IDAHO PASTURE PIG REGISTRY LLC,
5711 Karls Lane
Laona, Wisconsin 54541,

LAUREN COX,
1390 Old Ducktown Road
Limestone, TN 37681

STEVE SPARKS,
66497 S Harney Road
Burns, Oregon 97720,

ELLA SPARKS,
66497 S Harney Road
Burns, Oregon 97720,

JENNIFER TWAIT,
1402 Russell Bend Road
Weatherford, Texas 76088,

TRACY JENSON,
8851 CO Road P35
Blair, Nebraska 68008,

and

KIRSTIN BORDNER
424 Slutter Valley Road
Dornsife, Pennsylvania 17823,

Defendants.

COMPLAINT

Plaintiff Duck Creek Pastures, LLC (“Duck Creek”), through its attorneys, Boardman & Clark, LLP, alleges the following:

INTRODUCTION

1. Duck Creek brings this action against Idaho Pasture Pig Registry LLC (“Registry”) and members of the Registry Advisory Board for engaging in anticompetitive conduct including a group boycott of Duck Creek in violation of Section 1 of the Sherman Act. Pursuant to the group boycott, Registry and its Advisory Board co-conspirators agreed to exclude Duck Creek from the market for Idaho Pasture Pigs. This agreement has deprived Duck Creek of the ability to sell its stock of Idaho Pasture Pigs and blocked Duck Creek from the market for Idaho Pasture Pigs.

2. The agreement between Registry and members of the Advisory Board resulted in Duck Creek being expelled from the Idaho Pasture Pig Registry and deprived Duck Creek of the benefits associated with being a member of the Idaho Pasture Pig Registry and Idaho Pasture Pig Breed Association.

3. By virtue of having been removed from the Idaho Pasture Pig Registry, Duck Creek is unable to effectively market its supply of Idaho Pasture Pigs, which has resulted in severe economic hardship. The agreement by Registry and its co-conspirators has eliminated Duck Creek as a competitor from the marketplace and resulted in a decrease of supply of Idaho Pasture Pigs.

4. The agreement between Registry and members of the Advisory Board is a naked restraint of trade that is *per se* unlawful under Section 1 of the Sherman Act, 15 U.S.C. § 1.

JURISDICTION AND VENUE

5. This Complaint alleges violations of the Sherman Act, 15 U.S.C. § 1. It is filed under and jurisdiction is conferred upon this Court by the Clayton Act, 15 U.S.C. § 15.

6. This Court further has jurisdiction over this case under 28 U.S.C. §§ 1331 and 1337.

7. Venue is proper in this District under 15 U.S.C. § 22 and 28 U.S.C. § 1391 because Registry transacts business and committed illegal acts in this District within the meaning and scope of 15 U.S.C. § 22, and a substantial part of the events giving rise to the claims arose in this District.

PLAINTIFF

8. Plaintiff Duck Creek is a Wisconsin limited liability company engaged in the business of producing, raising and marketing for sale Idaho Pasture Pigs and their pork.

9. Duck Creek operates a farm utilized for the production and raising of Idaho Pasture Pigs and Idaho Pasture Pig pastured pork.

10. Duck Creek regularly conducts business at 679 W. Monroe Street, Pardeeville, Wisconsin 53954.

11. Duck Creek has two members: Cayla Aski and Mitch Aski.

12. Cayla Aski was a founding member and the first Vice President of the Idaho Pasture Pig Breed Association.

13. All members of Duck Creek are citizens of the State of Wisconsin.

DEFENDANTS

14. Registry is a Wisconsin limited liability company with a principal office located at 5711 Karls Lane, Laona, Wisconsin 54541.

15. Registry was formed by Jodi Cronauer and Dave Cronauer in 2012 to promote the production, marketing and sale of Idaho Pasture Pigs by its members.

16. Jodi Cronauer and Dave Cronauer were not the founders of the Idaho Pasture Pig breed.

17. Registry provides information regarding Idaho Pasture Pigs that are produced, raised, marketed, and sold by its members.

18. Those interested in becoming a member of the Idaho Pasture Pig Registry must submit an application for membership on a form generated and supplied by Registry.

19. Registry provides essential information to purchasers of Idaho Pasture Pigs related to the lineage, genetics and other factors regarding the pigs that are offered for sale by members of the Idaho Pasture Pig Registry.

20. Registry has an Advisory Board that is comprised of the six individually named defendants located throughout the United States.

21. Members of the Advisory Board were appointed by Registry's owners, Dave Cronauer and Jodi Cronauer.

22. The Advisory Board members are breeders of Idaho Pasture Pigs who compete in the marketplace for Idaho Pasture Pigs with Duck Creek and other breeders.

23. Defendant Lauren Cox is and was at all times relevant to this complaint a member of the Advisory Board. Lauren Cox is a natural person and a citizen of the State of Tennessee.

24. Defendant Steve Sparks is and was at all times relevant to this complaint a member of the Advisory Board. Steve Sparks also previously served on the Idaho Pasture Pig Breed Association Board of Directors. Steve Sparks is a natural person and a citizen of the State of Oregon.

25. Defendant Ella Sparks is and was at all times relevant to this complaint a member of the Advisory Board. Ella Sparks is a natural person and a citizen of the State of Oregon.

26. Defendant Jennifer Twait is and was at all times relevant to this complaint a member of the Advisory Board. Jennifer Twait is a natural person and a citizen of the State of Texas.

27. Defendant Tracy Jenson is and was at all times relevant to this complaint a member of the Advisory Board. Tracy Jenson also previously served on the Idaho Pasture Pig Breed Association Board of Directors. Tracy Jenson is a natural person and a citizen of the State of Nebraska.

28. Defendant Kirstin Bordner is and was at all times relevant to this complaint a member of the Advisory Board. Kirstin Bordner also served as a judge for Idaho Pasture Pig Breed Association shows. Kirstin Bordner is a natural person and a citizen of the State of Pennsylvania.

THE IDAHO PASTURE PIG MARKET

29. The Idaho Pasture Pig is a breed of pig that was founded in 2006 and is characterized and distinguished by size, appearance, temperament, and other unique qualities.

30. The Idaho Pasture Pig has achieved a reputation for quality and other characteristics that are desirable to purchasers of pigs.

31. As a result of the reputation and perception of the Idaho Pasture Pig, the pigs demand a higher sale price than other pigs.

32. Only members of the Idaho Pasture Pig Registry with registered stock may identify the pigs they are selling as registered Idaho Pasture Pigs.

33. Only members of the Idaho Pasture Pig Registry are able to access information regarding the quality of the pig, such as genetic and other lineage-related information that is essential to the ability to sell registered Idaho Pasture Pigs.

34. Duck Creek purchased its first Idaho Pasture Pig in 2018.

35. Duck Creek became a registered breeder and member of the Idaho Pasture Pig Registry in 2020.

36. Duck Creek purchased a premium membership from Registry and became a “Lifetime Breeder” in 2021.

37. Registry never required Duck Creek to execute an agreement or contract containing rules or a code of conduct for the Idaho Pasture Pig Registry.

38. Idaho Pasture Pigs that are identified and included in the Idaho Pasture Pig Registry command a higher price and sell for many multiples of the sale price for pigs that are not identified and included in the Idaho Pasture Pig Registry.

39. No prospective purchaser of registered Idaho Pasture Pigs will consider purchasing from an Idaho Pasture Pig breeder who is not a member of the Idaho Pasture Pig Registry.

40. Accordingly, being a member of the Idaho Pasture Pig Registry is an element essential to effective competition in the market for the sale of Idaho Pasture Pigs in the United States.

THE IDAHO PASTURE PIG BREED ASSOCIATION

41. The Idaho Pasture Pig Breed Association is a non-profit organization incorporated in the State of Wisconsin intended to facilitate Idaho Pasture Pig breeders in solidifying the breed characteristics within their herds and producing litters of Idaho Pasture Pigs that have consistent size and growth rates.

42. The Idaho Pasture Pig Breed Association hosts shows, during which registered Idaho Pasture Pig breeders from across the country enter their Idaho Pasture Pigs in competitions that are judged by other Idaho Pasture Pig breeders selected by the Idaho Pasture Pig Breed Association.

43. Registry co-owner Jodi Cronauer served as a judge for an Idaho Pasture Pig Breed Association show in 2021 at which Duck Creek’s Idaho Pasture Pigs were exhibited.

44. Registry co-owner Dave Cronauer served as a judge for the 2023 Idaho Pasture Pig Breed Association Show and Expo.

45. No Idaho Pasture Pig breeder may participate in an Idaho Pasture Pig Breed Association show unless they are a member of the Idaho Pasture Pig Registry.

46. Participating in an Idaho Pasture Pig Breed Association show provides an Idaho Pasture Pig breeder with essential marketing opportunities and critical exposure to prospective purchasers of Idaho Pasture Pigs.

47. Winning any competition at an Idaho Pasture Pig Breed Association show increases the value of a breeder's Idaho Pasture Pigs.

48. Only members of the Idaho Pasture Pig Registry may be members of the Idaho Pasture Pig Breed Association.

49. One purpose of the Idaho Pasture Pig Breed Association is to support Registry and its Advisory Board.

50. Pursuant to the Idaho Pasture Pig Breed Association Bylaws, the membership of any breeder in the Idaho Pasture Pig Breed Association may not be revoked or suspended without providing the member with formal notice that a vote of the Board of Directors will take place and giving the member an opportunity make an appeal to the Board of Directors and state their case.

THE CONSPIRACY

51. Membership in the Idaho Pasture Pig Registry is an element essential to effective competition in the market for sales of Idaho Pasture Pigs.

52. Registry has complete control over who may be a member of the Idaho Pasture Pig Registry and have access to it.

53. The Advisory Board has authority to make decisions that affect members of the Idaho Pasture Pig Registry.

54. Through their power to determine which breeders of Idaho Pasture Pigs can be members of the Idaho Pasture Pig Registry, the Advisory Board and Registry have exclusive control over which Idaho Pasture Pig breeders can have access to an element essential to effective competition in the market for sales of Idaho Pasture Pigs.

55. On or about April 7, 2023, Registry and the Advisory Board unanimously agreed to revoke the membership of Duck Creek in the Idaho Pasture Pig Registry.

56. In agreeing to revoke Duck Creek's membership in the Idaho Pasture Pig Registry, the Advisory Board members were acting in their respective individual interests as competitors in the market for sales of Idaho Pasture Pigs and with an anticompetitive animus toward Duck Creek.

57. In a letter dated April 7, 2023, the Advisory Board and Registry informed Mitch and Cayla Aski, the owners of Duck Creek, that the membership of Duck Creek in the Idaho Pasture Pig Registry was being terminated as of the date of the letter. Specifically, in the letter, it states: "in light of your recent and ongoing actions, which are in violation of the Agreement you executed with Idaho Pasture Pig Registry, Duck Creek Pastures' and your personal association with our registry and organization, including your Lifetime Breeder membership, is hereby permanently terminated effective as of the date of this letter. The letter further states that "accordingly, your pigs and their associated breed lines shall likewise be terminated from the Idaho Pasture Pig Registry. As a result, any registered Idaho Pasture Pigs relating in any way to our Registry shall no longer be registered to Duck Creek Pastures or to you personally."

58. Registry and the Advisory Board did not provide Duck Creek with any prior notice that their membership was subject to and being considered for termination.

59. Duck Creek was not provided an opportunity to be heard regarding the status of its membership prior to the receipt of the April 7, 2023 letter.

60. The April 7, 2023 letter does not state the reasons why or the ways in which the Agreement referred to in the letter was violated. Duck Creek was not provided with an opportunity to be heard regarding the decision by Registry and the Advisory Board to terminate its membership. In addition, Duck Creek was not able to protest the decision that resulted in its exclusion from the Idaho Pasture Pig Registry.

61. Because Duck Creek's membership in the Idaho Pasture Pig Registry was terminated, Duck Creek can no longer be a member of the Idaho Pasture Pig Breed Association. Duck Creek was not provided with notice or an opportunity to be heard regarding the decision to terminate its the Idaho Pasture Pig Breed Association membership.

62. The action taken by Registry and the Advisory Board in terminating the membership of Duck Creek in the Idaho Pasture Pig Registry and, as a result, depriving Duck Creek of the benefits of membership in the Idaho Pasture Pig Registry, the Idaho Pasture Pig Breed Association, and an essential means of competition in the market for sales of Idaho Pasture Pigs, is a group boycott and a violation of the Sherman Act.

63. The termination of Duck Creek's membership in the Idaho Pasture Pig Registry was not justified by any conduct of Duck Creek that violated legitimate membership rules or standards of the Registry and, upon information and belief, was motivated solely by the desire of the defendant Advisory Board members to eliminate Duck Creek as a competitor in the market for the sale of Idaho Pasture Pigs in which each of the defendant Advisory Board members compete.

COUNT ONE – VIOLATION OF SECTION 1 OF THE SHERMAN ACT

64. Plaintiff hereby realleges, repeats and incorporates by reference as though fully set forth herein the allegations contained in the preceding paragraphs.

65. Registry and Advisory Board are made up of breeders of Idaho Pasture Pigs. As breeders of Idaho Pasture Pigs, members of the Advisory Board compete with fellow breeders of Idaho Pasture Pigs, including Duck Creek.

66. The agreement between Registry and the Advisory Board to terminate Duck Creek's membership in the Idaho Pasture Pig Registry was done without affording Duck Creek due process or any opportunity to be heard or to protest the decision.

67. The decision by Registry and the Advisory Board to terminate Duck Creek's membership in the Idaho Pasture Pig Registry had the effect of eliminating a competitor and depriving consumers of the Idaho Pasture Pig breed of the opportunity to purchase high-quality registered Idaho Pasture Pigs from Duck Creek.

68. The decision by Registry and the Advisory Board to terminate the membership of Duck Creek in the Idaho Pasture Pig Registry had the effect of reducing competition in the marketplace for the sale of registered Idaho Pasture Pigs by depriving Duck Creek of the ability to compete in the marketplace for the sale of registered Idaho Pasture Pigs.

69. The agreement between Registry and the members of the Advisory Board, acting in their individual interests as competitors in the Idaho Pasture Pig market, to revoke Duck Creek's membership deprives Duck Creek of an element essential to effective competition in that market and is therefore *per se* unlawful under Section 1 of the Sherman Act, 15 U.S.C. § 1. No elaborate industry analysis is required to demonstrate the anti-competitive character of this agreement.

70. Duck Creek is entitled to an injunction against defendants Registry and the Advisory Board members, preventing and restraining the violations alleged here, as well as enjoining them from terminating the membership of Duck Creek in the Idaho Pasture Pig Registry.

PRAYER FOR RELIEF

Plaintiff requests that:

- (A) The Court adjudge and decree that the unanimous agreement between Registry and the Advisory Board to terminate the membership of Duck Creek in the Idaho Pasture Pig Registry is an illegal restraint of trade, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1;
- (B) The Court enter a preliminary and permanent injunction restraining Registry and the Advisory Board from terminating Duck Creek's membership in the Idaho Pasture Pig Registry;
- (C) The Court award Duck Creek threefold the damages sustained as a result of Registry's violation of 15 U.S.C. § 1, in accordance with 15 U.S.C. § 15(a).
- (D) Duck Creek be awarded such other relief as the Court may deem just and proper to address and prevent recurrent of the alleged violation and to dissipate the anti-competitive effects of the illegal agreement entered into by Registry and the Advisory Board; and
- (E) Duck Creek be awarded the costs of this action and reasonable attorneys' fees.

JURY TRIAL DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Duck Creek demands a trial by jury for all issues so triable.

DATED: August 15, 2023

BOARDMAN & CLARK LLP

By:

s/ Patrick L. Breen

Patrick L. Breen – WI Bar No. 1102833

Sarah J. Reusché (Horner) – WI Bar No. 1113185

1 South Pinckney Street, Suite 410

P. O. Box 927

Madison, WI 53701-0927

pbreen@boardmanclark.com

sreusche@boardmanclark.com

Tel: 608-257-9521

Counsel for Plaintiff